

# **EXHIBIT K**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE**

NATIONAL EDUCATION  
ASSOCIATION; *et al.*,

*Plaintiffs,*

v.

UNITED STATES DEPARTMENT OF  
EDUCATION; *et al.*,

*Defendants.*

Case No. 1:25-cv-00091-LM

**DECLARATION OF CHRISTINE BOSTON**

I, Christine Boston, pursuant to 28 U.S.C. § 1746, depose and say as follows:

1. My name is Christine Boston. The facts set forth in this declaration are based on my personal knowledge. If called as a witness, I could and would competently testify to the following matters under oath.

2. I am the Assistant Superintendent of Dover School District (School Administrative Unit 11). I have held this role since 2018. On July 1, 2025, I will become the Superintendent of Dover School District.

3. I make this declaration to describe the effects that the Dear Colleague Letter issued by the Department of Education (the “Department”) on February 14, 2025 (the “Letter”), and the Department’s subsequent directives in execution of the Letter, are having, and will continue to have on Dover School District.

**Background on the Dover School District**

4. The City of Dover was settled in 1623. It is the seventh oldest city in the United States and the fastest growing city in New Hampshire.

5. Dover School District serves approximately 4,200 students. It has three elementary schools, one middle school, one high school, and a career technical center.

6. Dover School District is governed by the Dover School Board.

7. The goal of the Dover School District's educational system is to ensure that each student, regardless of background, has access to relevant and engaging learning experiences and curricula that they will need to thrive today and into the future.

8. Dover School District's learning philosophy is that education can be the most powerful mechanism of social change. The District celebrates the individual differences students bring to an educational environment. For Dover School District, educational excellence results from producing work that others can use and helps learners develop a sense of self through engaging with the larger community.

9. The District strives to produce learners who have critical thinking, collaboration, communication, character, and life skills. Dover School District endeavors for our students to become well-rounded individuals who are prepared for the challenges of the future. Our students learn to seek cultural understanding to enable them to work effectively and respectfully with diverse teams.

10. Dover School District receives approximately \$3.1 million for this current fiscal year (2024-25) in direct federal funding grant support, which includes Titles I–IV and Individuals with Disabilities in Education Act (IDEA) financial support, which are recurring based on qualifications.

- a. The largest source of federal funding for Dover School District is Title I, which supports students in high-poverty communities and low-income families. We use

these funds to provide valuable reading and writing intervention to students and families at the District's elementary and middle schools. For example, we stocked a van with books that runs to high-poverty neighborhoods to give students books to read and host story time. During the summer, we hosted programming for eligible elementary and middle school students. We hosted enhanced family engagement events to make sure the forms for free and reduced lunch programs were accessible to parents who do not speak English or have limited literacy skills. We held monthly family engagement nights with math games or invited authors to speak in an effort to reach families who typically do not engage with the school and to demonstrate enrichment activities they can do at home to support their children's learning. In addition, we used this funding to provide professional development. We trained staff to support the academic, behavioral, mental, and socio-emotional wellbeing of students and emphasized the importance of positive behavior interventions and solutions. We sent Title I staff to the Granite State Literacy Summit to learn innovative literacy tools and strategies to enhance reading and writing instruction. Our Title I interventionists were trained to promote literacy development with their students. Finally, we increased our staffing to provide services to students who need extra assistance with reading, writing, and math.

- b. The Title III funds were used to serve our English Language (EL) learners. Dover School District has EL teachers and paraprofessionals in all of its schools, supporting approximately 160 EL students. We used these funds to enrich and develop English language proficiency and help students meet state standards. We purchased instructional materials, provided professional learning for teachers, and

supported language-building activities, such as field trips for EL students, and a summer program.

- c. The District used Title IV funds to create a district-wide sustainability plan for educational and racial equity, develop programming and to expand social-emotional learning opportunities, and to expand supports from a licensed drug and alcohol counselor to serve students. Our annual needs assessment indicated that we needed to focus on students' wellbeing. We introduced intense interventions to ensure our students are able to cope with anxiety and will pilot the Coping Cat, an evidence-based program that addresses mild to moderate anxiety in school age children in the fall.
- d. Dover School District used IDEA funds to improve instructional practices for the inclusion of students with disabilities. We extended the school year through the summer for students who, without continuity of services, would fall behind over the summer and be unable to access their education in the fall. We hired occupational therapists to provide additional speech and occupational therapy so students with disabilities could be included in the general education setting. We hired three special education teachers and three special education administrators so we could fully serve our students with disabilities.

11. I am aware of the February 14, 2025 Dear Colleague Letter and the February 28, 2025 "Frequently Asked Questions" document published by the United States Department of Education, as well as the President's Executive Orders on diversity, equity, and inclusion in K-12 schools and higher educational institutions. I am also aware of the United States Department of Education's March 14, 2025 announcement that it has opened investigations into 45 universities following the February 14, 2025 Dear Colleague Letter.

12. Furthermore, I am aware that, on April 3, 2025, the United States Department of Education sent a letter to all state departments of education stating that these state departments need to—within 10 days (by Sunday, April 13, 2025)—certify compliance with the February 14, 2025 Dear Colleague Letter as a condition for receiving federal funds. As a result, on the evening of April 3, 2025, I received from the New Hampshire Department of Education a certification document stating that my district must complete the certification by no later than Thursday, April 10, 2025 at 5:00 p.m. After the United States Department of Education extended the deadline for state departments of education to Thursday, April 24, 2025, the New Hampshire Department of Education set a new **Thursday, April 17, 2025 (5:00 p.m.)** deadline for my District to send a certification. I am aware of the parties' April 9, 2025 agreement with respect to the certification ramifications.

#### **Instruction at Dover School District**

13. Dover School District uses competency-based education, a system that ensures all students reach mastery of the content and skills at their own pace. Students have both voice and choice in creating their own pathways for learning. Competency-based learning prioritizes practical and authentic application and assessment.

14. Instruction follows a Depth of Knowledge framework that considers how deeply students must know, understand, and be aware of what they are learning in order to attain and explain answers, outcomes, results and solutions. It teaches students to transfer knowledge to other academic and real-world settings. At level one, students initially learn to recall and reproduce facts, including tasks to copy, compute, define, or recognize facts. Level two focuses on developing students' skills and concepts and includes tasks like comparing, organizing, summarizing, predicting, and estimating. At level three, students engage in strategic thinking, which requires them to use evidence to make and justify their choices, such as solving non-

routine problems, designing and conducting experiments, or analyzing characteristics of a genre. Level four requires the most complex cognitive effort, extended thinking. Students synthesize information from multiple sources or transfer knowledge from one domain to solve problems in another.

15. We strive for all students to reach the highest levels of thinking through instruction, in a way that is developmentally appropriate, because that is where students develop the skills necessary to thrive in the world and higher education.

16. Dover School District's best practices include the use of a variety of instructional strategies to meet the needs of diverse learners and the establishment of specific achievement goals, including resources to reduce achievement gaps.

**Principles of Diversity, Equity, and Inclusion at Dover School District**

17. Dover School District does not promote discrimination of any kind. Discrimination conflicts with our values and approach to learning, and is prohibited by federal and state law.

18. The District celebrates the diversity of our student body, pursues equity, and creates inclusive learning environments. This commitment is required by the City of Dover school board and the State of New Hampshire.

19. Dover School District submits proposed curriculum to the school board for approval. One of the criteria considered by the school board is whether the curriculum is accessible, including whether it "contains appropriate content that is relevant to the diverse abilities and needs of the students" and whether it is "accessible to diverse students. Materials are available to support all learning needs." (attached as Ex. A).

20. The District designed a plan to embrace educational equity as ensuring just outcomes for each student, raising marginalized voices, and challenging the imbalance of power and privilege. The equity plan outlined five goals:

- a. Increase the equity literacy of teachers, administrators, and staff of the Dover School District.
- b. Improve the school culture in all schools to be inclusive, safe, and welcoming for all students, staff, and families.
- c. Ensure equitable achievement of all students through effective communication, instruction, and assessment practices.
- d. Expand family and community engagement in Dover Schools, especially families that have not been historically engaged.
- e. Recruit, retain, and promote a diverse mix of educators who are representative of the growing diversity in our schools and communities.

21. Dover School District provides trainings to help staff understand equity. For example, the District focused its opening day activities on equity and inclusion in 2023, including trainings by NH Outright, on support for LGBTQ+ students, Indigenous NH, and others.

22. On April 10, 2025, Dover School District hosted its annual celebration of learning and diversity event for the entire K-12 community. Students, families, and community organizations were invited to share aspects of their culture or language through books, poetry, art, clothing or traditional dress, dance, music, games, or food.

23. For four consecutive years, Dover High School has been recognized by the Special Olympics New Hampshire with a Certificate of Inclusion as part of their Unified Champion Schools program. The recognition affirmed Dover High School's commitment to students with and without intellectual disabilities.

24. The Frances G. Hopkins School at Horne Street collaborated with Northeast Passage to introduce adaptive sports opportunities. Students learned to use wheelchairs and engaged in



inclusive play together. They learned about the Special Olympics and other opportunities for people of all abilities to play together.

25. Students at the middle and high schools in Dover School District have created groups to support each other. For example, Dover High School has a Gender, Sexuality Alliance, and the elementary school has a social justice group. All student groups are initiated by students, supervised by an adult, and open for any student to join.

**Impact of Dear Colleague Letter on Dover School District**

26. Dover School District discusses race, diversity, equity, and inclusion in ways that are appropriate for students' age and understanding. The Dear Colleague Letter's vague position that all diversity, equity, and inclusion programs engage in "smuggling racial stereotypes" into everyday programming makes me question whether the Department of Education and others could view the District's efforts to create relevant and engaging learning environments with well-rounded teachers and staff as violative of the Letter. The Dear Colleague Letter does not meaningfully define what the Department of Education means by DEI nor does the Letter offer specific guidance as to precisely what is (or is not) legal in the eyes of the current federal administration.

27. The Dear Colleague Letter limits instruction at every level. It has a chilling effect on teachers as they push students beyond rote memorization towards application of knowledge to novel situations. I worry that I cannot provide guidance to Dover School District staff about what the Department of Education might consider to violate the Dear Colleague Letter. They are concerned because they don't know what instructional techniques or topics they can continue to use.

- a. At the lowest level of learning, recall and reproduction, teachers must consider whether the facts introduced could be considered within the bounds of the Dear Colleague Letter. Topics of "systemic and structural racism" naturally arise within

the scope of classroom discussion in various courses, including many of the District's social studies and English language arts courses. Because some instruction requires discussion of these topics, like the Civil Rights Movement, I cannot tell what the Department of Education would construe as impermissible.

- b. As students learn skills and concepts in level two, they often ask questions as they are processing information. Teachers have asked me whether they should respond or are required to ignore questions from students related to information taught in class. Grappling with information and developing curiosities is exactly what we want students to do at this stage, but teachers are chilled in their classroom interactions because they do not know if answering questions could be considered to violate the Dear Colleague Letter. Specifically, teachers have asked me whether they may answer a student's question about human sexuality in a health class or whether they may teach a book in an upper-level English class that references sexuality. Indigenous history is very important in the Dover community and taught in the District. Because we must teach the mistreatment of Indigenous people to be accurate, I am worried that the Department of Education could perceive this classroom discussion and instruction as "teach[ing] students that certain racial groups bear unique moral burdens that others do not."
- c. At the higher levels, strategic and extended thinking, the teacher coaches students as they think critically to interpret and contextualize the instructional material. Students make real-time applications of the concepts they learn in class. For example, students in a history course may be tasked with comparing and contrasting the current political climate with the developments that immediately preceded the Civil War or considering the impact of political conditions on

Shakespeare's writing. By encouraging students to analyze the similarities to the present, I fear that a teacher could be accused of training students on "explicit race-consciousness." This level of critical thinking is exactly what we strive to reach with every student but teachers don't know if instruction involving race, diversity, equity, and education at the highest levels of learning is permissible after the Dear Colleague Letter. Outside of the tasks assigned by teachers, students engaged in higher level learning may ask questions about current events that lead to class discussion that could be considered appropriate after the Dear Colleague Letter.

- d. In order to follow the Dear Colleague Letter, teachers and administrators will likely need to water down the content of their courses and reduce students to the lowest levels of thinking, which does a disservice to students and is inconsistent with the goals of the Dover School District.
- e. We are tasked with creating engaged global citizens, but the Dear Colleague Letter would not allow us to teach students how to engage in civil discourse around topics that the Department of Education could interpret as impermissibly addressing race, diversity, equity, or inclusion. In school, students learn to consider various viewpoints and make conclusions based on evidence. This isn't just an academic skill; it is a life skill. Because of the Dear Colleague Letter, students may lose the ability to analyze material, increase their cognitive effort, and apply skills to novel situations. If so, learning environments will no longer be dynamic spaces for the student engagement that leads to academic success and real-world preparation.

f. The Dear Colleague Letter limits instruction on topics that fit squarely within our curriculum so teachers don't know if they can continue to teach this information. For example, teachers must discuss racism to contextualize the Civil War. Would the Department of Education consider this instruction as "teach[ing] students that certain racial groups bear unique moral burdens that others do not?" Instead of focusing on a developmentally appropriate way to present information, teachers now must question whether they can discuss the topic at all and attempt to predict if their instruction could be considered prohibited. I have never seen classroom instruction restricted in this way.

g. Last year, Dover High School invited a Holocaust survivor to speak to students about her experience. The students learned so much from her lived experience; the event was much more impactful than simply reading about the Holocaust. I'm not sure if this event would run afoul of the Dear Colleague Letter by "teaching that certain racial groups bear unique moral burdens that others do not."

28. The Dear Colleague Letter is difficult to apply because it conflicts with my state's requirements for instruction and the responsibilities of educators.

a. New Hampshire law requires that we provide an "Adequate Public Education," which includes: "Knowledge of civics and government, economics, geography, history, and Holocaust and genocide education to enable them to participate in the democratic process and to make informed choices as responsible citizens." *See* RSA 193-E:2, IV. It also includes "Grounding in ... literature to enable them to appreciate our cultural heritage and develop lifelong interests and involvement in these areas." *See* RSA § 193-E:2, V. Celebration of cultural history is central to

Dover School District's approach, but I fear the Department of Education would determine it violates the Dear Colleague Letter.

- b. Chapter Ed 300 of New Hampshire's Education Rules details the "Minimum Standards for Public School Approval." United States and New Hampshire history, government and civics, economics, personal finance, and world history are courses required for graduation. N.H. Code Admin. R. Ann. Ed 306.23(f)(3)(f) Students are required to learn through multiple perspectives; consider interactions and interdependence through multiple perspectives; and to examine engagement across differences of culture, race, and heritage. N.H. Code Admin. R. Ann. Ed 306.23(f)(3)(f). I worry that the Department of Education could perceive the courses and approach to instruction mandated by New Hampshire as a contravention to the Dear Colleague Letter.
- c. The State of New Hampshire's Guiding Principles: The Code of Ethics for New Hampshire Educators articulate consideration of diversity, equity, and inclusion principles as part of educators' "responsibility to practice within the educational profession according to the highest ethical standards..." (attached as exhibit B). Principle I outlines educators' responsibility and commitment to the education profession and colleagues, advising that the educator "communicates with colleagues in a clear, respectful, and culturally sensitive manner." Exhibit B. Principle II outlines educators' responsibility and commitment to the student, noting that the educator "communicates with students in a clear, respectful, and culturally sensitive manner." Exhibit B. Principle III describes educators' responsibility and commitment to the school community. Exhibit B. To fulfill this principle, the educator "commits to equality, equity, and inclusion of colleagues,

staff, students, parents or guardians and other members of the school community; [and] respects diversity amongst colleagues, staff, students, parents or guardians, and other members of the school community.” Exhibit B. New Hampshire describes consideration of cultural sensitivity, diversity, equity, and inclusion as educators’ responsibility, but I fear that the Department of Education would view this approach as illegal DEI.

29. The Dear Colleague has created fear and confusion amongst teachers who do not know what or how they may teach. I regularly receive questions from teachers wondering what is allowable and how they may avoid being reported to the DEI tip line. Teachers have asked if they can still include books about Black or Indigenous history in their classroom library and if so, whether they can read these books aloud to students. I do not know what the Department of Education will consider to be DEI. I am also aware that some teachers have chosen to self-censor altogether instead of asking questions.

30. I fear that the Dover School District will lose teachers because of the confusion and fear caused by the Dear Colleague Letter. The District is already facing teacher shortages in general and special education as well as substitute teachers.

31. Beyond instruction, the Dear Colleague Letter limits Dover School District’s ability to continue to create environments that are safe and affirming for students. Our commitment to equity is not abstract, it developed from our students’ painful experiences and expressed interests.

- a. Over the course of three years, the Dover School District lost three students from one class to suicide. It was, and is, excruciating. As a result, we prioritize suicide prevention, including activities specifically targeted towards marginalized populations at higher risk to experience suicide. We never want to lose another

student to suicide and fear that the Department of Education could consider the work we do to ensure the livelihood of students as DEI.

- b. In 2018, students at Dover High School sang a KKK-themed jingle threatening to “kill all the Blacks” during a lesson on post-Civil War reconstruction era lesson in a U.S. History course. The District addressed the matter with those directly involved. The shocking nature of this incident also began a broader discussion within Dover School District. A group of Black students joined together to create Project D.R.E.A.M. to pursue equity at school, holding conversations with other students and administrators about their experiences and the importance of considering various viewpoints. Ensuring that all students are welcome at Dover School District requires programs and partnerships that the Department of Education may consider DEI.
- c. Dover School District may no longer be able to continue Project D.R.E.A.M., the student groups that support LGBTQIA students, and student groups committed to social justice or equity if the Department of Education considers these activities to be DEI.

32. Dover School District recently spent \$1.4 million from the Elementary and Secondary School Emergency Relief (ESSER III) Fund, allotted through the Coronavirus Aid Relief and Economic Security (CARES) Act, to update its elementary and middle school curriculum to reflect the diversity of its student body. The District considered various options to spend the ESSER III funds, including after school programs, but decided that updating curriculum would be the best investment because students could use the materials for years to come. Further, the Department of Education’s guidance explicitly stated that the funds may be used to support the implementation of curriculum and instructional practices that were culturally responsive and that

incorporated trauma-informed pedagogy. (attached as exhibit C, at 41). Therefore, the curriculum materials the District purchased included diversity. These materials provided elementary students with background knowledge that would provide a basis of understanding for instruction in middle and high school. If the Department of Education considers this curriculum to be DEI, Dover School District will lose the value of this investment. The District does not have money in its budget to re-purchase an entire curriculum.

**Impact of the Loss of Federal Funding on Dover School District**

33. On February 4, 2025, the N.H. Department of Education sent a Technical Advisory highlighting the U.S. Department of Education's actions to eliminate DEI. Both the United States and N.H. Department of Education are requiring the District to imminently certify that the District is in compliance with the Letter or risk losing vital federal funds that the District depends on.

34. The conditions to federal funds imposed by the Dear Colleague Letter and Certification Requirement also amount to coercion. This is because the financial conditions imposed in the Letter and the Requirement seem to be new and retroactive and imposed midstream in the middle of a funding cycle. Given this potential retroactivity of new requirements, my District, as a recipient, had no opportunity to knowingly accept or reject the funds based on these new conditions when funds were accepted.

35. Unless the letter is voided, Dover School District will be irreparably harmed. The loss of federal funds would be devastating and would be roughly equivalent to losing the entire staffing budget for one of our elementary schools. Taxes are capped in Dover so we would not be able to bridge the gap in revenue. Because we would still be required to fulfill our obligations to students with disabilities, we would need to reduce programming for general education students.

36. Without federal funding, I fear that the quality of education in Dover School District would suffer significantly. The average class size in our elementary schools would likely double,



from 16 to 19 students per class to approximately 35 students per class. The District would no longer be able to provide any services that are not legally mandated, including the mental health services that our students need. Students may not be able to go on field trips anymore. Teacher attrition would likely increase. The loss of federal funds would be detrimental to our ability to maintain buildings and programs.

37. I am proud that Dover School District produces students who are not only academic learners but dynamic global citizens adept at the skills they need to live in a diverse society. The Dear Colleague Letter, through its vaguely worded prohibitions, threatens the essence of what keeps our learning environment a place where all students and staff are welcomed and succeed.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 12th day of April, 2025.

A handwritten signature in black ink, appearing to read "Christine Boston", written over a horizontal line.

Christine Boston